

Senate Study Bill 1005 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON BOLKCOM)

A BILL FOR

1 An Act excluding from the computation of net income capital
2 gains realized from the sale of all or substantially all of
3 the equity interests in certain businesses and including
4 retroactive applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 422.7, subsection 21, paragraph a,
2 subparagraph (1), Code 2011, is amended to read as follows:

3 (1) (a) Net capital gain from the sale of real property
4 used in a business, in which the taxpayer materially
5 participated for ten years, as defined in section 469(h)
6 of the Internal Revenue Code, and which has been held for
7 a minimum of ten years, or from the sale of a business, as
8 defined in section 423.1, in which the taxpayer materially
9 participated for ten years, as defined in section 469(h) of the
10 Internal Revenue Code, and which has been held for a minimum
11 of ten years. The sale of a business means the sale of all or
12 substantially all of the tangible personal property, intangible
13 property, or service of the business. "Sale of a business"
14 includes the sale of all or substantially all of the stock or
15 equity interests in the business, whether the business is held
16 as a proprietorship, corporation, partnership, joint venture,
17 trust, limited liability company, or another business entity.

18 (b) ~~However, where~~ If the business is sold to individuals
19 who are all lineal descendants of the taxpayer, the taxpayer
20 does not have to have materially participated in the business
21 in order for the net capital gain from the sale to be excluded
22 from taxation.

23 (c) ~~However, in~~ In lieu of the net capital gain deduction in
24 this paragraph and paragraphs "b", "c", and "d", ~~where~~ if the
25 business is sold to individuals who are all lineal descendants
26 of the taxpayer, the amount of capital gain from each capital
27 asset may be subtracted in determining net income.

28 Sec. 2. RETROACTIVE APPLICABILITY. This Act applies
29 retroactively to January 1, 2011, for tax years beginning on
30 or after that date.

31 EXPLANATION

32 This bill relates to the taxation of capital gains on the
33 sale of assets held in a business.

34 Current law provides an exclusion from the computation of
35 net income for any capital gains realized from the sale of

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1 all or substantially all of the tangible personal property or
2 service of a business if the taxpayer materially participated
3 in the business and held the assets for at least 10 years. This
4 exclusion, however, does not extend to the sale of stock or
5 other equity interests in the business. The bill applies the
6 exclusion to the sale of intangible property of the business,
7 including stock or other equity interests in the business.

8 The bill applies retroactively to January 1, 2011, for tax
9 years beginning on or after that date.